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No. 9

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IN THE

Supreme Court of the United States

NOLEN R. BREEDLOVE,
Appellant,

vs.

T. EARL SUTTLES, as TAX COLLECTOR,
Appellee.

APPELLANT'S BRIEF.

ARTHUR GARFIELD HAYS,
IRA HARRELSON,
HENRY G. VAN VEEN,
DAPHNE ROBERT,
Counsel for Appellant.

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T. EARL SUTTLES, as TAX COLLECTOR,
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APPELLANT'S BRIEF.

Appellant appeals from a final judgment of the Supreme Court of Georgia, which affirmed a judgment of the Superior Court of Fulton County in that state, denying a petition for a writ of mandamus to require T. Earl Suttles, as tax collector, to permit the appellant to register to vote for electors for President and Vice-President of the United States and Senators and Representatives in Congress without paying the poll tax required by the Constitution and Statutes of the State of Georgia. The appellant contended that these provisions were invalid as being in contravention of the Preamble to the Constitution of the United States, Article 1, Section 8, Clause 1; Article 1, Section 9, Clause 4; Article 4, Section 2, Clause 1; Article IV, Section 4, Article VI, Clause 2 thereof; and the Fourteenth, Fifteenth and Nineteenth Amendments thereto.

At the beginning of the hearing in the lower court, the appellee moved orally to dismiss the petition. The motion was granted. No testimony was taken. Under the Georgia practice the motion is the equivalent of the common law demurrer and the facts as set forth in the petition are deemed to be true and are conceded as the facts of the case.

The Code of Georgia of 1933, Section 81-304.

The judgment was affirmed by the Supreme Court of Georgia on the ground that the imposition of the poll tax was not violative of the aforementioned constitutional provisions.

The constitutional and statutory provisions objected to read as follows:

> Constitution Art. II, Sec. 1, Par. 3. "To entitle a person to register and vote at any election by the people, he shall have resided in the State one year next preceding the election, and shall have paid all poll taxes that he may have had an opportunity of paying agreeably to law * * *"
>
> 34-103. "I do swear, or affirm, that * * * I have paid all poll taxes which I have had an opportunity of paying agreeably to law; * * *" (Acts 1894, p. 116; Acts 1908, p. 58; Acts 1913, p. 115; Const. Art. II, Sec. 1, Par. III and Section 2-603.)
>
> 34-114. "No tax collector shall allow any person to sign his name in the voters' book unless he is satisfied, at the time, that the poll taxes due by said voter are paid and that he is otherwise qualified" (Acts 1894, pp. 115, 117; Const., Art. II, Sec. 1, Par. III and Sec. 2-603).
>
> 92-108. "There shall be levied and collected each year upon every inhabitant of the State between the ages of 21 and 60 years, on the day fixed for the return of property for taxation, a poll tax of $1.00 * * * Provided, that this tax shall not be demanded of * * * female inhabitants who do not register for voting" (Acts 1927 p. 57).

The appellant now assigns as error the ruling that the above-quoted provisions of the Georgia Constitution and Statutes do not

> (1) Abridge his right to vote on account of sex, in violation of the Nineteenth Amendment.

(2) Deny him the equal protection of the laws in violation of the Fourteenth Amendment.

(3) Abridge his privileges and immunities as a citizen of the United States in violation of the 14th amendment.

Upon docketing of the action in this court, the appellee moved to dismiss upon technical grounds, to which answer has heretofore been made in appellant's brief in opposition to such motion, and upon the further ground that this court was without jurisdiction in the case. This court thereafter reserved decision on the motion until after argument on the merits.

POINT I.

The Court has jurisdiction to hear and determine the issues.

The appeal to this court is based upon the Act of Congress of February 13, 1925, Chapter 229, 43 Stat. 938, which provides that the Court has jurisdiction on writs of error (under the later Act of January 31, 1928, Chapter 14, 45 Stat. 54 and Chapter 440, 45 Stat. 46 by appeal) to review "a final judgment or decree in any suit in the highest court of a state in which a decision could be had where is drawn in question * * * the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity. The Supreme Court of the State of Georgia is the highest court of that state having jurisdiction of the issues. The Constitution of the State of Georgia, paragraph 5, expressly confers upon the Supreme Court of Georgia the power to ultimately determine * * * "all cases that involve the construction of the Constitution of the State of Georgia or of the United States," * * * "in all cases in which the constitutionality of any law of the State of Georgia or of the United States is drawn in question * * *."

This appeal is not aimed at poll taxes as such but against poll taxes which carry a deprivation of the elective franchise. Of all forty-eight states the laws of Georgia are most vicious in this respect. While poll taxes exist in thirty-six states,† only eleven require payment as a prerequisite to voting, and of these eleven only four require the cumulative payment of back taxes.‡ Of these four, Mississippi and Virginia restrict the period of back payments to two and three years respectively. In Georgia the accrued tax is cumulative and all back taxes of men (and men only) must be paid as a prerequisite to the exercise of the voting franchise.

The Georgia laws, which the appellant contends to be repugnant to the several provisions of the Constitution of the United States, set out herein, have restricted the vote in Georgia to eight percent. of the population, whereas an average of thirty-nine percent. of the population votes in states which do not require the payment of a poll tax.**

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† States having poll tax, with asterisk before those states which require its payment as a condition of exercising the franchise.

*Alabama	Louisiana	New Jersey
*Arkansas	Maine	North Carolina
Connecticut	Maryland	North Dakota
Delaware	Massachusetts	Oklahoma
*Florida (see below)	Michigan	Pennsylvania
*Georgia	Minnesota	*Rhode Island
Idaho	*Mississippi	*South Carolina
Illinois	Missouri	*Tennessee
Indiana	Montana	*Texas
Iowa	Nebraska	*Vermont
Kansas	*Nevada	*Virginia
Kentucky (see below)	New Hampshire	Wyoming
		Washington

The Florida legislature has abolished the poll tax as a prerequisite for voting this year, but the repeal only becomes effective on January 1st, 1938.

Section 1441 of the Kentucky Statutes permits a municipality to require the payment of a poll tax as a prerequisite to voting.

‡ States requiring the payment of poll taxes in arrears.

Alabama Georgia Mississippi Virginia

In Mississippi they need only be paid two years back and in Virginia three years back.

** Appendix 1.

The appellant contends that the privilege of voting for federal officials is one to which he is entitled, unrestricted by a tax unreasonably imposed through state invasion of his rights as a citizen of the United States. As such citizen he is entitled to participate in the choice of electors of the President and the Vice President of the United States and of Senators and Representatives in Congress and no state may exercise its taxing power so as to destroy this privilege. If the tax imposed by Georgia were increased to a high degree, as it can be if valid, it could easily be used for the purpose of destroying the elective franchise altogether, by reducing the percentage of voters to even less than eight per cent of the population of the State. Whatever property and other economic restrictions on the franchise may have been upheld in earlier periods of our history,* the admission today that a state has the power to prevent its poorer inhabitants from participating in the choice of federal officials would be totally contrary to the contemporary spirit of American institutions, and inconsistent with the purposes announced in the Preamble to the United States Constitution.

The appellant cites the following decisions of the Supreme Court of the United States as indicating that that tribunal has jurisdiction to review the final judgment of the Supreme Court of the State of Georgia, which judgment expressly upheld the validity of the provision in the State Constitution and Statutes drawn in question in the original mandamus proceeding:

Colgate v. *Harvey,* 296 U. S. 404;
Miller v. *Schoene,* 276 U. S. 272, 48 S. Ct. 410;
Western Turf Association v. *Greenberg,* 204 U. S. 359;
American Express Co. v. *Michigan,* 177 U. S. 440;
Hartman v. *Greenhow,* 102 U. S. 672.

* J. Dougherty, Electoral System of the United States. Kirk Porter, History of Sufferage in United States.

The constitutional questions raised are serious and not frivolous.

> *Zucht* v. *King*, 260 U. S. 174, 176;
> *Louisville & Nashville Railroad* v. *Melton*, 218 U. S. 36, 49.

The Supreme Court has never considered the constitutionality of a state poll tax. Prior decisions upholding the various qualifications imposed by states on their voters have sustained statutes which were less objectionable in character, in that they did not seek to limit the franchise by discriminating against impecunious members of the community. Moreover they were decided many years ago and their reconsideration in view of present day conditions would be peculiarly appropriate. The privilege of a citizen of the United States to vote for federal officials is one which the United States Constitution protects from unreasonable abridgment by a state's imposition of an economic burden. The right to vote for such officials is, under twentieth century conditions, one which inheres in the appellant by reason of his United States citizenship.

POINT II.

The Statute is repugnant to the Nineteenth Amendment.

That the Georgia Statute is repugnant to the Nineteenth Amendment is apparent on its face. The Nineteenth Amendment provides:

> "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex."

The statute provides:

Section 92-108 provides:

> "There shall be levied and collected each year upon every inhabitant of the state between the ages of 21 and 60 years, on the day fixed for the return of property for taxation, a poll tax of $1.00 * * * provided that this tax shall not be demanded of * * * female inhabitants who do not register for voting". (Acts 1927, p. 57).

The statute here does precisely that very thing. It limits the right of male citizens, without imposing the same limitation upon females. It is an abridgement based upon sex.

That the Nineteenth Amendment was intended to apply with equal force to both sexes can hardly be questioned. In the language of *Graves* v. *Eubank, infra,* it protects the man and woman alike. This is in keeping with the entire history of the exercise of the right of franchise in the United States; the tendency has been to wipe out discriminations whether based on property, color, sex or creed.

The language is exactly similar to that of the Fifteenth Amendment and the decisions of this Court in interpreting the effect of the Fifteenth Amendment will apply with equal force to the Nineteenth. The decisions all indicate that the amendment is self-executing and strikes down all inconsistent legislation. This was the rule laid down by this Court in the case of *Guinn* v. *United States,* 238 U. S. 347. The Court there held:

> "While in the true sense, therefore the amendment gives no right of suffrage, it was long ago recognized that in operation its prohibition might measurably have that effect, that is to say, that as the command of the amendment was self-executing and reached without legislative action, the conditions of discrimination against which it was aimed, the result might arise that as a consequence of the striking down of a discriminating clause a right of suffrage would be enjoyed by reason of the generic character of the provision which would remain after the discrimination was stricken out. Ex parte Yarbrough 110 U. S. 651; Neal v. Delaware, 103, U. S. 370."

That the Nineteenth Amendment is similarly self-executing has been held by this Court in *Leser* v. *Garnett,* 258 U. S. 130. In that case a constitutional limitation of suffrage to males under the organic law of Maryland was held to have become automatically inoperative with the enactment of the Nineteenth Amendment.

The Appellate Courts of other states have taken the same view.

Graves v. *Eubank,* 205 Ala. 174;
Prewitt v. *Wilson,* 242 Ky. 231.

Indeed the State of Georgia has held this to be the rule.

Hawthorne v. *Turkey Creek School District,* 162 Ga. 462.

In *Graves* v. *Eubank* (*supra*), the Supreme Court of Alabama had before it the exact converse of this case. Alabama had a poll tax which applied to males only. The payment of the tax was an essential prerequisite to voting; the petitioner, a female, attempted to pay her tax. The tax collector took the position that the Nineteenth Amendment did not amend the Alabama statute so as to impose a poll tax upon women and that women in the state of Alabama, under the then present state of the law might vote without the payment of any poll tax. On appeal, the Alabama Supreme Court granted a writ of mandamus, holding:

> "This amendment (the Nineteenth) automatically strikes from the state laws, organic and statutory, all discriminatory features authorizing one sex to vote and excluding the other, or placing conditions or burdens upon one, not placed upon the other, as a condition precedent to the right to vote * * *. *It protects the man and woman alike,* and a burden cannot be placed upon one sex that is not put upon the other, nor can a privilege, benefit or exemption be given one to the exclusion of the other." (Italics ours.)

The imposition of a discriminatory prerequisite to registration has been held to be an abridgement of the right to vote within the meaning of the amendment.

In *Prewitt* v. *Wilson,* 242 Ky. 231, a statute imposing a literacy test upon women only was held to be inoperative and void as a result of the enactment of the Nineteenth Amendment, the Kentucky Court there stating:

> "But it is said by the appellant that the terms of this statute granting a limited right of suffrage to women in school elections is not discriminatory because of sex, but merely sets up a test of literacy. The argument is a specious one, for male voters are not required to meet the same test. Its limitation only applies to women and it is, therefore, discriminatory against them. Illiterate women, no less than illiterate men, may exercise the right of suffrage in Kentucky and such votes cast for the appellee were properly counted."

The Georgia courts have themselves decided that the Georgia poll tax statute in question involves a burden upon men not imposed upon women. In *Hawthorne* v. *Turkey Creek School District,* 162 Ga. 462, the legality of a bond issue was attacked. The issue could only be valid if approved by a two-thirds vote of the qualified electors of the district. Several females voted in the election. The vote was close and the appellants moved to set aside the election upon the ground that the female votes in favor of the issue should not have been counted inasmuch as they had failed to pay their poll tax. The Court of Georgia held that the portion of the law of Georgia which resulted in women paying a poll tax only for the year in which they registered, while the tax upon men was cumulative was a valid act and permitted their votes to be counted.

This Court is thus faced with the situation where the Supreme Court of Georgia has decided that in Georgia there is a burden imposed on males which is not imposed upon females.

This Court has heretofore held in *Taylor* v. *Thomas*, 89 U. S. 479, that judicial and legislative acts hostile in their purpose or mode of enforcement to the authority of the national government, or which impair the rights of citizens to the constitution are invalid and void. The rights of men in Georgia have been seriously impaired, they have been subjected to a burden not equally imposed and it is respectfully submitted that in consequence so much of the constitution and statutes of Georgia as impose a greater burden upon men than upon women abridge the rights of Georgia's male citizens under the Nineteenth Amendment and are consequently void and of no effect.

POINT III.

The Georgia Poll Tax Statute denies the citizens of Georgia the equal protection of the laws in violation of the Fourteenth Amendment.

Section 92-108 of the Laws of 1927, impose three arbitrary and discriminatory classifications upon the citizens of Georgia. Under the terms of the Act only males and females between the ages of 21 and 60 are liable for its payment. There is thus established an age classification. The Act further provides special treatment for females, or a sex classification. Thirdly the statute establishes payment of the tax itself as a prerequisite to voting, or a monetary classification.

It is submitted by counsel for the appellant that all three of these classifications are arbitrary and improper and deprive the plaintiff of the equal protection of the laws guaranteed him by the Fourteenth Amendment. It is particularly significant that in the opinion of the Supreme Court of Georgia, disposing of this case, the Court cited as controlling law, a quotation of Mr. Justice Cooley, on his work on *Con-*

stitutional Limitations (p. 23 appellant's brief in opposition to motion to dismiss appeal). There Mr. Justice Cooley said:

> "All regulations of the elective franchise, however, must be reasonable, uniform and impartial, they must not have for their purpose directly or indirectly to deny or abridge the constitutional right of citizens to vote or unnecessarily to impede its exercise, if they do, they must be declared void."

That such statement is good law will undoubtedly be uniformly conceded by all counsel in this case, but there certainly is grave doubt as to whether this statute is reasonable and uniform and whether it does not abridge the constitutional right of plaintiff to vote. In considering the effect of the equal protection clause of the Fourteenth Amendment, this Court has held that while the states retain the power of classification, yet such classification cannot be made arbitrarily. *Gulf, Colorado & Sante Fe R. R.* v. *Ellis*, 165 U. S. 150, 155.

This Court and the courts of many states have from time to time voided laws which established arbitrary classification. A very lengthy list of such laws is reviewed in the *Gulf* case (*supra*). But what is even more significant in that case is the language of Mr. Justice Brewer in discussing and defining arbitrary classification. The language might very well have been a part of the opinion in this very case. The Legislature of the State of Texas had passed a statute whereby railroad corporations as distinguished from other corporations, might in certain actions against them, be subjected to the payment of the plaintiff's attorney's fees, and the Court held that the statute in so far as it singled out railroad corporations was a discrimination against them and deprived them of the equal protection of the law. The Court stated:

> "The state may not say that all white men shall be subjected to the payment of attorney's fees of parties successfully suing them and all black men not. *It may*

> *not say that all men beyond a certain age shall be alone thus subjected,* or all men possessed of a certain wealth. These are distinctions which do not furnish any proper basis for the attempted classification." (Italics ours.)

Yet this classification is exactly the one that the State of Georgia is here attempting to justify. Under the specific terms of Section 92-108 of the Acts of 1927, if you are under sixty you pay, and if you are over sixty you cast your ballot without paying.

It is respectfully contended that this is an arbitrary classification, which imposes a discriminatory burden upon the male electorate between 21 and 60. There would, undoubtedly, seem to be no rational basis for any such discrimination. Men beyond sixty are no better or no less fitted to exercise the right of suffrage because of their age. Certainly if anything, men between fifty and sixty are in their prime. They have reached a maturity which has been mellowed by the wisdom of middle age. To impose upon this portion of the electorate a burden not imposed upon those beyond sixty is totally without a rational basis. It was undoubtedly the very thing that Mr. Justice Brewer had in mind in using the language he did. (The *Gulf* case, *supra.*)

No less an arbitrary distinction is that drawn between men and women. While counsel have located no case in which this court has considered such a distinction, the question has nevertheless arisen. In *Morgan* v. *The State,* 179 Ind. 300, a criminal statute of the State of Indiana provided a different method of procedure in connection with insanity pleas of males and females. The appellant was a male found to have been responsible for a murder, but also found temporarily insane and as a result thereof, was committed to the Indiana State Hospital for the Insane. Counsel there contended that in so far as the Indiana statute distinguished between men and women, his client was being deprived of the equal protection guaranteed by the Fourteenth Amend-

ment of the Constitution of the United States. The Court upheld counsel's contention stating:

> "* * * the equal protection guaranteed by the Constitution, forbids the Legislature to select a person, natural or artificial, and impose upon him or it burdens and liabilities which are not cast upon others similarly situated."

The Act in question read in conjunction with the decision of the Georgia Supreme Court in *Hawthorne* v. *Turkey Creek School District* (*supra*) and by the very language of the statute itself, imposes an arbitrary discrimination between men and women and in so doing it deprives the plaintiff of the equal protection of the laws.

The third arbitrary classification is that imposing a tax upon the right to vote. Counsel is not unaware of the historic development of suffrage in the United States and of the previous decisions of this court that the states have power to impose reasonable limitations upon the exercise of the franchise. It is a privilege rather than a right. A possession of property or the payment of a tax has often been made a qualification for voting. Yet this court has never considered the validity of a tax on property prerequisite to the exercise of the franchise under the equal protection clause. Moreover the decisions in *Minor* v. *Happersett,* 21 Wall. 162, and *McPherson* v. *Blacker,* 146 U. S. 1 decided more than half a century ago are not squarely in point. Since they involved state limitations upon the right to vote entirely different than those now before the court for its consideration. In this age, where illiteracy is fast disappearing throughout the country, where most men keep apace of current events, where the tax burden falls on all alike, where the entire trend is toward democracy and toward increasing the rights of the average citizen and giving him opportunity to participate in his government, it would be peculiarly appropriate for this court to reconsider the entire question.

There is certainly very little correlation between the ability of a man to vote and his ability to pay a poll tax. Many of the world's great thinkers would have undoubtedly been deprived of the right of franchise under this Georgia statute. Certainly the great literary figures of times past, who were properly, by mental equipment, most qualified to exercise the right of suffrage, would have been precluded from voting in Georgia.

And it is respectfully submitted that today any statute which qualifies a man for voting on the basis of his ability to pay a fixed sum of money, is not within keeping of the times.

It is significant that this statute restricts the electorate of Georgia to 8% of the population, while in other states not having a poll tax statute with a franchise deprivation clause for the average electorate is in excess of thirty percent.*

The appellant here respectfully submits that he is entitled to vote and that any act which bars him from voting on the basis of his sex, on the basis of his age, or on the basis of his tax-paying ability, is arbitrary classification which deprives him of the equal protection of the laws afforded him by the Fourteenth Amendment of the Constitution of the United States.

POINT IV.

The imposition of a poll tax as a prerequisite to voting in the state of Georgia, is a denial of a privilege or immunity of a citizen of the United States within the meaning of the Fourteenth Amendment.

The Fourteenth Amendment provides:

> "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.

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* See appendix 1.

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States * * *."

In his petition to the Superior Court of Fulton County, the appellant alleges without contradiction that on the 16th day of March, 1936, he attempted to register in order to vote for various federal officials, i. e., President and Congressman (see record page 1) and the sole ground of denial of such right was his inability to take an oath that he had paid all poll taxes agreeable to the Statute (record page 16). There is thus raised squarely the issue, does the poll tax statute of Georgia in so-far as it denies to a citizen of Georgia the right to participate in a national election, abridge his privileges as a citizen of the United States.

Counsel for the appellant in raising this issue, is not unmindful of the previous decisions of this Court in *McPherson* v. *Blacker,* 146 U. S. 1 and *Minor* v. *Happersett,* 21 Wall. 162, but it is submitted that these cases decided a half century ago, require a re-examination. The nature and essential character of the national government has undergone tremendous change in the fifty-year period which has intervened since the decision of this Court in those cases.

The national government has today extended its directing scope in a multitude of new fields. At the time of the decisions in question federal regulation of labor conditions, social security and relief of agriculture were unheard of. The taxation of citizens by the Federal Government to meet these burdens was unknown. While at the beginning of the century the functions of the government were limited and few—today the entire trend has been reversed and the participation of the citizens of a state in the democratic process by which those selected to manage the present day federal government are selected has become a most important "privilege",—Only by true democratic government and the participation of a citizen in the election of his Congressmen and President can true national democratic government survive.

This Court has heretofore held that:

> "The privileges and immunities of citizens of the United States as distinguished from the privileges and immunities of citizens of the states, are indeed protected by it; but those are privileges and immunities arising out of the natural and essential character of the national government and granted or secured by the Constitution of the United States". *In Re Kemmler,* 136 U. S. 436 at 448.

That the federal government has the right to interfere in questions involving the state conduct of elections when the election of members of the house is at issue is today not within the realm of debate. In *Ex Parte Yarbrough,* 110 U. S. 651, this court interfered in the conduct of a Georgia election in order to protect the right of certain colored citizens to vote. Similarly, it has declared invalid and unconstitutional clauses contained within a state constitution which abridged the right of a negro in Oklahoma to cast his ballot. *Guinn* v. *United States,* 238 U. S. 347. See also *Nixon* v. *Herndon,* 273 U. S. 536.

This court has also, on occasion, interfered to prevent corrupt practices in state elections. *Newberry* v. *United States,* 256 U. S. 232. That the court has this power, has been recently affirmed in the case of *Colgate* v. *Harvey,* 296 U. S. 404, where the court held that, "while the Fourteenth Amendment did not create a national citizenship, it has the effect of making that citizenship 'permanent and dominant' instead of 'deprivative and dependent' " upon state citizenship. The privilege of voting for members of Congress and Presidential electors is one which arises by virtue of national citizenship and no state today may properly enact a statute which discriminates against its citizens on the basis of a poll tax or on the basis of an age disqualification or on the basis of sex. These rights are all within the rights which the Fourteenth Amendment was meant to protect.

Wherefore it is respectfully submitted that the Appellant was entitled to register in order to vote for President and member of Congress and that the Supreme Court of Georgia erred in denying him such rights.

POINT V.

The judgment of the Supreme Court of Georgia should be reversed.

Respectfully submitted,

ARTHUR GARFIELD HAYS,
IRA HARRELSON,
HENRY G. VAN VEEN,
DAPHNE ROBERT,
Counsel for Appellant.

APPENDIX I.

The population and voting population of the United States. Percentages indicate the effect of poll tax on the exercise of the voting franchise.

State	*1930 Pop.*	*1932 Votes Polled*	*%*
Alabama	2,646,248	245,034	9.3
Arizona	435,573	118,251	27.1
Arkansas	1,854,482	220,562	11.9
California	5,677,251	2,266,845	39.9
Colorado	1,035,791	457,696	44.2
Connecticut	1,606,903	594,183	36.8
Delaware	238,380	112,902	47.3
Florida	1,468,211	276,252	19.0
Georgia	2,908,506	255,590	8.8
Idaho	445,032	186,520	41.9
Illinois	7,630,654	3,407,926	44.1
Indiana	3,238,503	1,575,282	48.6
Iowa	2,470,939	1,036,688	41.9
Kansas	1,880,999	791,978	42.1
Kentucky	2,614,589	983,063	37.8
Louisiana	2,101,593	268,271	12.8
Maine	797,423	298,444	37.4
Maryland	1,631,526	510,054	31.2
Massachusetts	4,249,614	1,580,043	37.1
Michigan	4,842,325	1,664,628	34.3
Minnesota	2,563,953	1,002,843	39.1
Mississippi	2,009,821	146,034	7.3
Missouri	3,629,367	1,609,894	44.3
Montana	537,606	216,479	40.3
Nebraska	1,377,963	570,135	41.4
Nevada	91,058	41,430	45.4
New Hampshire	465,293	205,520	44.2
New Jersey	4,041,334	1,630,063	43.4
New Mexico	423,317	151,606	35.3
New York	12,588,066	4,688,614	37.2
North Carolina	3,170,276	711,401	22.4
North Dakota	680,845	256,290	37.6
Ohio	6,646,697	2,610,088	39.2

State	1930 Pop.	1932 Votes Polled	%
Oklahoma	2,396,040	704,633	29.4
Oregon	953,786	368,751	38.6
Pennsylvania	9,631,350	2,858,968	29.7
Rhode Island	687,497	266,170	38.7
South Carolina	1,738,765	104,407	6.0
South Dakota	692,849	288,438	41.6
Tennessee	2,616,556	390,638	14.9
Texas	5,824,715	863,392	14.8
Utah	507,847	206,679	40.0
Vermont	359,611	136,978	38.0
Virginia	2,421,851	297,942	12.3
Washington	1,563,396	614,814	42.5
West Virginia	1,729,205	743,774	43.1
Wisconsin	2,939,006	1,114,808	37.8
Wyoming	225,565	96,962	42.9